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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,536	02/05/2002	Alan F. Savicki	492.214	4090

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THE GLAD PRODUCTS COMPANY
P.O. BOX 24305
OAKLAND, CA 94623-1305

EXAMINER

BRITTAINE, JAMES R

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Offic Action Summary

Application No.

10/049,536

Applicant(s)

SAVICKI, ALAN F.

Examiner

James R. Brittain

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*-- Th MAILING DATE of this communication appears on the cover sh t with the correspondence address --***Period f r Reply****A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 31 March 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-48 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-48 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6. 6) Other:

DETAILED ACTION***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 6, 13-15, 19, 26, 30, 37, 38, and 42 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Tomic (US 6293701).

Tomic (figure 12) teaches a closure device used on a container having sidewalls comprising first and second fastening strips 130" 131" connected to the sidewalls, the fastening strips have a longitudinal X axis, a transverse Y axis and a vertical Z axis, the fastening strips are arranged to be occluded over a predetermined length in the X axis, the fastening strips are arranged to be deoccluded and form an opening between the fastening strips when deoccluded, the opening is visible when viewed in the Z axis, the first fastening strip includes a first portion 149" comprising a closure element with a first color (col. 10, lines 4-10), the first color is not visible when viewed in the Z axis when the fastening strips are occluded because of the superjacent flange extending over the first portion 149". However, the first portion 149" is clearly viewable from above when the fastening strips are deoccluded.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3-5, 7-10, 16-18, 20-23, 27-29, 31-34, 39-41, and 43-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomic (US 6293701) in view of Kettner (US 5356222).

Tomic (figure 12) teaches a closure device used on a container having sidewalls comprising first and second fastening strips 130" 131" connected to the sidewalls, the fastening strips have a longitudinal X axis, a transverse Y axis and a vertical Z axis, the fastening strips are arranged to be occluded over a predetermined length in the X axis, the fastening strips are arranged to be deoccluded and form an opening between the fastening strips when deoccluded, the opening is visible when viewed in the Z axis, the first fastening strip includes a first portion 149" comprising a closure element with a first color (col. 10, lines 4-10), the first color is not visible when viewed in the Z axis when the fastening strips are occluded because of the superjacent flange extending over the first portion 149". However, the first portion 149" is clearly viewable from above when the fastening strips are deoccluded. The difference is that it lacks added portions of color. However, Kettner et al. (figures 1-7) teaches closure device, comprising: first and second fastening strips 218, 220, the fastening strips are arranged to be occluded over a predetermined length in the X axis, the first fastening strip includes a first portion with a first color 29, the fastening strip includes a second portion with a second color 27, the

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first color 29 is not visible when viewed through the webs 28, 30 when the fastening strips are occluded because only the second color 27 is visually observable through the webs 28, 30 (col. 5, lines 18-30). When the strips are improperly mated, both first and second colors 27, 29 are visually observed through each web. Kettner suggests the use of multiple colors on several different portions of the fastening strips so as to provide added assurance of sealing. It would have been obvious to modify the coloring of the device of Tomic so as to provide added coloring on other portions so as to more easily see whether sealing is taking place in view of Kettner suggesting the use of color on several different areas of the fastening elements so as to provide added assurance of sealing. The particular portion that is colored is an obvious extension of the teachings of Tomic and Kettner since Kettner suggests coloring several different portions of the fastening elements so as to more easily detect sealing.

Claims 12, 25, 36, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomic (US 6293701) in view of Pope (US 5140796).

Tomic (figure 12) teaches a closure device used on a container having sidewalls comprising first and second fastening strips 130" 131" connected to the sidewalls, the fastening strips have a longitudinal X axis, a transverse Y axis and a vertical Z axis, the fastening strips are arranged to be occluded over a predetermined length in the X axis, the fastening strips are arranged to be deoccluded and form an opening between the fastening strips when deoccluded, the opening is visible when viewed in the Z axis, the first fastening strip includes a first portion 149" comprising a closure element with a first color (col. 10, lines 4-10), the first color is not visible when viewed in the Z axis when

the fastening strips are occluded because of the superjacent flange extending over the first portion 149". However, the first portion 149" is clearly viewable from above when the fastening strips are deoccluded. The difference is that a slider is not included. However, Pope (Figures 1, 2) teaches that it is well known to supply a slider 15, 16, 17 to aid in securement of the fastening strips. It would have been obvious to modify the fastener of Tomic so that a slider is included to facilitate closing the fastening strips in view of Pope (figures 1, 2) teaching that it is well known to supply a slider 15, 16, 17 to aid in securement of the fastening strips.

Claims 11, 24, 35, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomic (US 6293701) in view of Kettner (US 5356222) as applied to claims 10, 23, 34, and 46 above, and further in view of Pope (US 5140796).

Further modification of the fastener of Tomic so that a slider is included to facilitate closing the fastening strips would have been obvious in view of Pope (figures 1, 2) teaching that it is well known to supply a slider 15, 16, 17 to aid in securement of the fastening strips.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on M, W & F 5:30-1:30, T 5:30-2:00 & TH 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



James R. Brittain
Primary Examiner
Art Unit 3677

JRB
June 16, 2003